

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DASSAULT SYSTEMES, S.A.,

Plaintiff,

v.

Case No. 09-10534
Hon. Lawrence P. Zatkoff

KEITH CHILDRESS
d/b/a PRACTICAL CATIA TRAINING,

Defendant.

ORDER DISMISSING PENDING MOTIONS AS MOOT

This matter is before the Court on Plaintiff's Motion for Protective Order [dkt 63] and Motion to Amend/Correct the Court's Order for Permanent Injunction [dkt 73]; and Defendant's Ex Parte Emergency Motion for Stay Pending Appeal [dkt 69]; Emergency Motion to Stay Pending Appeal [dkt 74]; and Motion to Amend/Modify the Court's Order for Permanent Injunction [dkt 76]. The motions have not been fully briefed, but as explained below, the Court will resolve the motions based on the pleadings submitted. For the following reasons, the parties' motions are DENIED as moot.

Plaintiff filed this action on February 12, 2009, asserting that Defendant was infringing its copyright and trademark rights and violating the Michigan Consumer Protection Act, Mich. Comp. Laws § 445.901 regarding Defendant's use of Plaintiff's CATIA software. In lieu of answering the Complaint, Defendant filed several motions. In return, Plaintiff filed a motion for default judgment. The Court granted Plaintiff's motion for default judgment. Defendant then filed a motion requesting that the Court set aside the entry of default judgment. The Court denied Defendant's motion, entered a permanent injunction against Defendant's use of the CATIA software, and entered a

judgment against Defendant in the amount of \$964,465, plus attorney fees and cost. Defendant appealed the Court's opinion and order and judgment to the Sixth Circuit Court of Appeals on August 2, 2010.

On December 13, 2011, the Sixth Circuit Court of Appeals reversed the Court's judgment in part and remanded the case with instructions, stating:

For the foregoing reasons, we AFFIRM the district court's judgment in part and REVERSE in part. We REVERSE the district court's orders granting Dassault's motion for default judgment and denying Childress's motion to set aside entry of default judgment, VACATE the permanent injunction against Childress and the default-judgment entry awarding damages to Dassault, and REMAND for proceedings consistent with this opinion. Because we agree with the district court's conclusion that the materials Dassault seeks from the FBI are not comprised of protected grand jury information, we AFFIRM the district court's judgment that Dassault's subpoena does not violate Federal Rule of Criminal Procedure 6(e). For the reasons stated above, we also AFFIRM the district court's denial of Childress's motion to strike.

Dassault Systemes, SA, v. Childress, 663 F.3d 832, 847 (6th Cir. Dec. 13, 2011). On February 9, 2012, the Sixth Circuit Court of Appeals issued the mandate allowing this Court to resume its jurisdiction over this case.

Turning to the parties' pending motions, the motions were filed shortly before Defendant filed his notice of appeal and during the pendency of his appeal. The parties' motions either address the permanent injunction ordered by the Court or request a stay during the pendency of Defendant's appeal. Because the Court of Appeals has issued an opinion vacating the permanent injunction and judgment awarding damages to Plaintiff, the parties' motions regarding modification of the permanent injunction and stay during the appeal are now moot.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Protective Order [dkt

63] and Motion to Amend/Correct the Court's Order for Permanent Injunction [dkt 73] is DENIED as moot.

IT IS FURTHER ORDERED that Defendant's Ex Parte Emergency Motion for Stay Pending Appeal [dkt 69]; Emergency Motion to Stay Pending Appeal [dkt 74]; and Motion to Amend/Modify the Court's Order for Permanent Injunction [dkt 76] is DENIED as moot.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: February 15, 2012

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on February 15, 2012.

s/Marie E. Verlinde
Case Manager
(810) 984-3290